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AMCCC-G

POINT PAPER

1 October 1998

SUBJECT: Contractor Employees in the Federal Workplace -- Practical Advice

PURPOSE: Summarize the principles derived from the CY 1998 AMC Ethics Training Program, "Contractor Employees in the Federal Workplace -- Confronting the Challenges!"

FACTS:

- Remember that contractor employees are ***not*** Federal employees.
- Identify contractor employees as such with distinctive security badges, by including their company's name in their e-mail address, and otherwise ensuring that our employees and members of the public understand their status.
- Respect the employer-employee relationship between contractors and their employees and do not interfere with it by inviting their employees to leave their assigned work station, pressuring the contractor to use "favorite" employees, or insisting on particular personnel actions.
- Be aware of intellectual property rights consequences of contractor employee work products created in the Federal workplace. Generally, the contractor will be able to commercially exploit software or inventions that it creates in the Federal workplace.
- Avoid giving incumbent contractor unfair competitive advantage by including its employees in meetings to discuss aspects of the re-competition, or by accidentally allowing the contractor's employees to overhear or gain access to planning information.
- Identify possible conflicts by contractor employees. If it would be a crime (conflict of interest) or violate the Standards of Ethical Conduct (appearances of partiality) for a Federal employee to participate in an official matter, we should insist that the contractor provides employees free of the same conflicts or appearances.
- Safeguard proprietary, Privacy Act, and other sensitive and nonpublic information. Release of certain types of information to contractor employees to analyze, create charts and graphs, enter into databases, etc., could violate the procurement integrity law, the trade secrets act, the Privacy Act, or other law or regulation that could subject the releaser to civil and/or criminal penalties to include mandatory removal.
- Beware of gifts from contractor employees. Even if they work in the Federal workplace, they are "outside sources" and the rules for their gifts are very different than

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the rules for gifts between employees. One major difference is that contractors and their employees may not be solicited to provide or contribute to gifts where we might be able to do so from other Federal employees for a retirement gift for another Federal employee.

- Don't require "out of scope" work, personal services, or "inherently governmental functions." The services that the contractor is required to provide through its employees are set out in the contract... there are no "and other duties as assigned." When we contract, we give up control and flexibility.

- Resolve inappropriate appearances created by close relationships between Federal and contractor employees. For example, if a Federal employee develops a close personal relationship with the contractor's site manager, that Federal employee probably should not be assigned or continue as the Contracting Officer Representative (COR).

- Set the example -- as leaders, establish and maintain high ethical standards.
- Address ethical issues promptly and confer with legal counsel.

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